IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 3099 of 2004

Between:

The Rajasthan Pragathi Samaj Adilabad, rep.by its Secretary Kamal Kishore Agarwal, S/o.late Sri Bhagwandas Agarwal,R/o.5-4-17, M.G.Road, Adilabad District.

..... PETITIONER

AND

1 The Executive Officer, Marwadi Panchayat Bhawan Adilabad District.
2 The Commissioner of Endowments, Adilabad, Adilabad District.
3 The Deputy Commissioner of Endowments, Warangal, Warangal District.
4 The Assistant Commissioner Endowments, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order, direction or issue an appropriate writ, more particularly one in the nature of writ of Mandamus: directing the respondents herein to stop the public auction of shops bearing Numbers, 2,3,10,19,20, corresponding its Municipal Door Nos (i) 3-4-250/11, (ii) 3-4-350/10, (iii)3-4-250/3, (iv) 5-7-63/10/1, (v) 5-7-63/12, situated within the complex of the Marwadi Panchayat Bhawan Dharmashala, at Ambedkar Chowk, Adilabad town, Adilabad District, and consequently declare that the Notification of Public Auction for lease dated: 6-2-2004 issued by the respondent No.1 herein proposing to lease the same on 23.2.2004 , is illegal, arbitrary and against the mandatory provisions of the Endowments Act,.

Counsel for the Petitioner: MR.S.CHANDRASEKHAR

Counsel for the Respondent No.: SMT.JYOTHI ESWAR GOGINENI

The Court made the following :

ORAL ORDER:

Heard both sides and at their request the main writ petition itself is taken up for disposal.

The petitioner, which is a Samaj, filed this writ petition seeking writ of Mandamus challenging the action on the part of the first respondent herein in conducting farce public auction in pursuance of the pamphlet which has been issued by R1 as illegal and arbitrary.

The case of the petitioner-Samaj is that it is a Charitable Institution and no Trust Board is constituted, without which the first respondent is trying to give the mulgies, which are vacant, to the persons known to him than conducting public auction as per law. Hence, the writ petition.

The learned standing counsel appearing for the respondents filed counter affidavit and submits that there cannot be any objection in regard to conducting of public auction because it is in the interest of the institution only. Further, as the mulgies are vacant and it will take time to constitute a Trust Board to the petitioner institution, the proposed auction is valid.

Be that as it may, without going into the correctness of the claim in regard to the constitution of Trust Board, which, of course, the respondents have to take steps for its constitution, however, the fact remains that the mulgies are lying vacant and

thereby the institution is being deprived of its legitimate income.

In the circumstances, the writ petition is accordingly disposed of directing the respondents herein to give a wide publicity in the concerned locality inviting tenders and offers from various members of the public rather than restricting to some persons by way of distributing the pamphlets for the same. It is needless to mention that the respondents also shall take appropriate steps immediately so far as the constitution of the Trust board of the petitioner institution. No costs.

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B. PRAKASH RAO, J

Dt. 27-8-2004

Note:

Furnish CC in three days.

B/o.

Kvrk

To

1 The Executive Officer, Marwadi Panchayat Bhawan Adilabad District.
2 The Commissioner of Endowments, Adilabad, Adilabad District.
3 The Deputy Commissioner of Endowments, Warangal, Warangal District.
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5. Two CD copies